

**IN THE UNITED STATES DISTRICT COURT
THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

Winn Materials, LLC,)
Plaintiff,) Case No. 3:11-cv-0045
v.)
Sunland Industries, LLC, and Frederick P.)
Weiner,)
Defendants.)

DENIAL OF DEFAULT JUDGMENT

Pending is Plaintiff's Motion for Default Judgment (Docket Entry No. 23) made pursuant to Federal Rule of Civil Procedure 55(b)(1). The motion is denied. Plaintiff's motion asserts that it is for a sum certain and properly made under Federal Rule of Civil Procedure 55(b)(1). However, Plaintiff's motion seeks attorney fees and expenses in the amount of \$11,692.54. Attorney fees and costs cannot be awarded by the Clerk under Federal Rule of Civil Procedure 55(b)(1). These expenses may only be awarded by the Court pursuant to Federal Rule of Civil Procedure 54(d)(2). In addition, Plaintiff's motion seeks speculative collection costs in the amount of \$15,000.00. These speculative costs cannot be characterized as a sum certain and will not be awarded by the Clerk. Finally, Plaintiff's Affidavit in support of the motion (Docket Entry No. 24) does not recount what the damages are for and what portion of the amount sought represents interest versus other costs. Accordingly, the motion is denied.

s/ Keith Throckmorton
Keith Throckmorton
Clerk of Court